

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3491 of 2023

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Satendr Tiwari S/o Ramchij Tiwari Koreya Dixit, Jagtauli, P.O.- Jagtauli, P.S.-
Bhore, District- Gopalganj, Bihar- 841426. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Director, Panchayati Raj Department, Government of Bihar, Patna.
3. The District Officer, Gopalganj.
4. The Deputy Development Commissioner, Gopalganj.
5. The District Panchayat Raj Officer, Gopalganj.
6. The Project Director, Panchayati Raj Department, Government of Bihar, Patna.
7. The District Collector Land and Revenue, Gopalganj, Bihar.
8. The Anchal Adhikari, Bhore, District- Gopalganj, Bihar.
9. The Public Information Cum Panchayat Raj Officer, Bhore, Gopalganj, Bihar.
10. In-Charge Officer, District Revenue Branch, Gopalganj.
11. The Mukhiya, Gram Panchayat Jagtauli, Prakhand Bhore, District- Gopalganj, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ahsok Kumar Sinha, Sr. Advocate
	:	Mr. Divyam Verma, Advocate
For the Respondent/s	:	Mr. Kumar Alok, SC-7
	:	Mr. Prem Ranjan Raj, AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 05-12-2023

Heard Mr. Ahsok Kumar Sinha, learned Sr. counsel

appearing along with Mr. Divyam Verma, learned counsel

appearing on behalf of the petitioner and Mr. Kumar Alok,

learned SC-7 along with Mr. Prem Ranjan Raj, learned AC to

SC-7 appearing on behalf of the respondent/s.

2. The petitioner has filed the writ petition for the

following reliefs:

- i. For directing the respondent authorities especially

Respondent Nos. 2 to 11 to approve/construct Panchayat Sarkar Bhawan (Panchayat Government Building) at Gram Panchayat Jagtauli in Bhore Prakhanda District-Gopalganj at a place/site government land appertaining to Khata No.03 Plot No.323 measuring 00-09-11 (09 Katha 11 Dhur) and adjacent land measuring 00-05-00 (05 Katha) bearing Khata No.20 Plot No.322 Thana No.299 to be donated by Hare Krishna Shah who happens to be descendant of Indrashan Sah and Bhrugurashan Sah in whose name jamabandi continues in respect of total land measuring 18 Kathas 09 Dhur out of which 05 Katha is to be donated by Hari Krishna Sah.

ii. For an issuance of an appropriate writ and/or writs in the nature of Certiorari to quash the resolution dated 26.01.2022 purported to have been passed in a general meeting of Gram Sabha of Gram Panchayat Raj, Jagtauli presided over by Mukhiya of the said Gram Panchayat Raj, whereby vide Resolution No.06 decision was taken to approve/construct Panchayat Sarkar Bhawan (Panchayat Government Building) at village- Sabnaha, being the village of Gram Panchayat Raj Jagtauli, on government land bearing Khata No.06 Plot No.170 measuring 00-16-00 (16 Katha).

iii. For a direction upon the Respondents Especially Respondent Nos. 02, 03 & 07 to expedite the issue of exemption of Registration fee as recommended by the Deputy Collector, Land & Reforms, Hathua, Gopalganj to complete the gift deed to be executed by Hare Krishna Sah in respect of 05 Katha of land bearing Khata No.20, Plot No.322, so as to make available total 14 Katha of land for construction of Panchayat Sarkar Bhawan.

iv. For directing the respondent authorities especially, the Respondent No.11 and Respondent No.8, 7 to cancel the subsequent proposed/approved selected place i.e. at village- Sabnaha 1.5 KM away from the Gram Panchayat Raj village Jagtauli as it does not fulfill the criteria of the guidance of the State government.

v. For a direction upon the respondent nos.2 to 6 and

8 & 11 not to start any construction of Panchayat Sarkar Bhawan at village Sabnaha in terms of the resolution no.06 passed in the gram sabha of Gram Panchayat Raj Jagtauli dated 26.01.2022.

vi. For all consequential relief/reliefs for which the petitioner is found entitled to.

3. Petitioner is aggrieved by the report of the Amin contained in 'Annexure-R/C' and proceeded to argue that the main issue involved in the present writ petition is that 'Panchayat Sarkar Bhawan' should have been constructed in Headquarter village i.e. Jagtauli but 'Aam Sabha' of the Gram Panchayat has passed a resolution that the building be constructed in another village namely Sabnaha. From Annexure-R/C it would appear that the *Amin* has recommended that the 'Panchayat Sarkar Bhawan' should be constructed in the village Sabnaha. Petitioner is aggrieved that which is not a headquarter village. The petitioner has further questioned the power of the Gram Sabha to pass resolution as contained in Annexure-1 to the writ petition. On these grounds, he proceeded to argue that provision of Section 7 and Section 9 have not been followed, which provides for functioning of Gram Sabha. Learned counsel further submitted that the Amin has no power to submit report based on recommendation without giving the details of land available for the headquarter village and Circle Officer having identified the government land available in the headquarter

village. The recommendation of the Amin, as well as, the Circle Officer are vitiated in the eye of law. Learned counsel further submitted that the required area for construction of 'Panchayat Sarkar Bhawan' is fulfilled if the government land measuring 9 katha and 11 dhoor bearing Khata No. 3, Plot no.323, is measure alongwith another adjacent plot measuring 5 Katha bearing Khata No. 20 plot no. 323, which, one Hari Krishna Saha, who is the Khatiyani Owner of the said land, has voluntarily agreed to donate the land and he will not ever seek compensation from the State Government and will register the land in the name of the State Government without charging any penny.

4. Learned counsel appearing on behalf of the State submits that the claim of the petitioner with respect to the land in question is not correct rather the actual land is 17 decimal in measurement and the same is Gairmajarua Maalik Parti Kadim. It is further submitted that in the same plot one Anganbadi has been constructed and some portion is used as Aam Rasta and Banskothi is also existing on the same land and as such the rest portion of the aforesaid land is not sufficient for the construction of Panchayat Sarkar Bhawan, in which atleast 50 decimal is required. He further submitted that the land adjacent to the public land, bearing Khata No.20, Plot No.322 is a private land

no affidavit has been brought on record of the private person, who wants to donate 18.6 decimal of his land. He next submits that the government land/public land which is situated in Mauja – Sabnaha Thana No.305 bearing Khata No.06, Plot No.170 measuring 50 decimal mentioned in Khatiyani as Chhawar, is sufficient for construction of Panchayat Sarkar Bhawan and the resolution passed by the Aam Sabha of Gram Panchayat Jagtauli is as per norms of Panchayat Raj Department (Annexure R/A to the counter-affidavit).

5. Learned counsel further submits that the revenue village Jagtauli is the headquarter village of Gram Panchayat Jagtauli and it is also true that the resolution passed in the meeting of Gram Sabha, Jagtauli for construction of Panchayat Sarkar Bhawan in the same Panchayat Jagtauli as per the direction by the Department of Panchayat Raj, Patna contained in Memo No.7593 dated 26.11.2019 (Annexure R/B to the counter affidavit).

6. Considering the aforesaid submission made on behalf of the petitioner, as well as, taking into consideration the counter affidavit filed on behalf of the respondent no.3 to 5 and 7, 8 and 10, the Additional Chief Secretary, Panchayati Raj is directed to call for the records relating to the Gram Panchayat

Raj, Jagtauli, District – Gopalganj with respect to the land which was recommended by the Circle Officer and the land which is situated in the headquarter village, Jagtauli.

7. It is made clear that from the pleading of the writ petition it has been informed that one Hari Krishna Saha has voluntarily offered his land contiguous to the government land, for construction of the building relating to Khata No. 20 plot no. 322 measuring 5 Katha. It would appear from Annexure- 4 and 5 to the writ petition that the Circle Officer, Bhore has already communicated to the Deputy Collector, Land Reforms Department, District- Gopalganj, however, no action has been taken by the Deputy Collector to earmark the said land and the building of the Panchayat Sarkar Bhawan has not been constructed till date.

8. The Circle Officer, Bhore and Survey Officer of the district must submit their report before the Additional Chief Secretary, Panchayatil Raj Department with respect to total area of land which the petitioner has claimed in the writ petition which he claims to fulfill the requisite land for construction of the 'Panchayat Sarkar Bhawan'. In case, the Additional Chief Secretary finds that the alternative site, which has been suggested by the Aam Sabha of the Gram Panchayat and the

land which has been informed by the petitioner located in the headquarter village, is less than what has been prescribed by the State Government for such construction, then in that case, he is required to pass appropriate order and direct the concerned authority to proceed with the construction work for construction of Building of ‘Panchayat Sarkar Bhawan’.

9. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J.)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2023
Transmission Date	NA